Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXV] Trivandrum, Sunday, 20th July 1980 / 29th Ashadha 1902 [No. 499

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 8823/LA4A/80. *Dated, Trivandrum, 20th July, 1980.*

The Kerala Slum Areas (Improvement and Clearance) Bill, 1980 together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. Prasannan,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1980

33/2762/MC

Sixth Kerala Legislative Assembly

Bill No. 39

THE KERALA SLUM AREAS (IMPROVEMENT AND CLEARANCE) BILL, 1980

A

BILL

to provide for the prevention, improvement and clearance of slum areas, for the acquisition of slum areas and of land required for the rehabilitation of slum dwellers and for the protection of tenants in slum areas from eviction.

Preamble.—WHEREAS it is necessary to provide for the prevention, improvement and clearance of slum areas, for the acquisition of slum areas and of land required for the rehabilitation of slum dwellers and for the protection of tenants in slum areas from eviction;

BE it enacted in the Thirty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Slum Areas (Improvement and Clearance) Act, 1980.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "building" includes any structure or erection or any part of a building as so defined but does not include plant or machinery comprised in a building;

(b) "Collector" means the Collector of a district;

(c) "competent authority", in relation to any area, means such officer or authority as the Government may, by notification in the Gazette, appoint as the competent authority for that area for the purposes of this Act;

(d) "erection", in relation to a building, includes extension, alteration or re-erection;

(e) "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

(f) "local authority" means a municipal corporation, a municipal council, a township committee or a panchayat;

(g) "occupier" includes—

(i) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;

(ii) an owner in occupation of or otherwise using, his land or building;

(iii) a rent-free tenant of any land or building;

(iv) a licensee in occupation of any land or building; and

(v) any person who is liable to pay to the owner damages for the use and occupation of any land or building;

(h) "owner" includes any person who is receiving or is entitled to receive the rent of any building or land, whether on his own account or on behalf of himself and others or as agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "slum area" means an area declared as such under sub-section (1) of section 3;

(k) "slum clearance" means the clearance of any slum area and the demolition and removal of buildings therefrom;

(l) "slum clearance area" or "clearance area" means an area in relation to which an order of slum clearance has been made under sub-section (1) of section 11;

(m) "State" means the State of Kerala;

(n) "work of improvement" includes, in relation to any building in a slum area, the execution of any one or more of the following works, namely:—

(i) necessary repairs;

(ii) structural alterations;

(iii) provision of light points, water taps and bathing places;

(iv) construction of drains, open or covered;

(v) provision of latrines, including conversion of dry latrines into water-borne latrines;

(vi) provision of additional or improved fixtures or fittings;

(vii) opening up or paving of courtyards;

(viii) removal of rubbish; and

(ix) any other work including the demolition of any building or any part thereof which in the opinion of the competent authority is necessary for executing any of the works specified above.

CHAPTER II

SLUM AREAS

3. *Declaration of Slum areas.*—(1) Where the competent authority, upon report from any of its officers or otherwise, is satisfied that—

(a) any area is or may become a source of danger to the health, safety or convenience of the residents of that area or of its neighbourhood, by reason of the area being low-lying, insanitary, squalid or otherwise; or

(b) the buildings in any area, used or intended to be used for human habitation,—

(i) are, in any respect, unfit for human habitation; or

(ii) are, by reason of dilapidation, overcrowding, faulty arrangement or design of such buildings, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities, or any combination of these factors, detrimental to safety, health or morals,

it may, by notification in the Gazette, declare such area to be a slum area.

(2) In determining whether a building is unfit for human habitation for the purposes of this Act, regard shall be had to its condition in respect of the following matters that is to say,—

(a) repair;

(b) stability;

(c) freedom from damp;

(d) natural light and air;

(e) water-supply;

(f) drainage and sanitary conveniences;

(g) facilities for storage, preparation and cooking of food and for the disposal of waste water;

and the building shall be deemed to be unfit as aforesaid, if and only if it is so far defective in one or more of the said matters that it is not reasonably suitable for occupation in that condition.

4. *Every building in a slum area to be registered.*—(1) Within sixty days from the date of declaration of any area as slum area under section 3, the owner of every building in such slum area shall apply to the competent authority for the registration of such building and also furnish to the competent authority such particulars as may be required by it.

(2) As soon as may be after the declaration of any area as a slum area under section 3, the competent authority shall—

(a) prepare records for the slum area, comprising a plan of the slum area, and a register enumerating every building thereon with adequate particulars thereof; and

(b) issue to the owner of every building in the slum area a registration card showing the particulars of the building concerned.

CHAPTER III

SLUM IMPROVEMENT

5. *Power to require execution of works of improvement to slum areas or buildings therein.*—(1) Where the competent authority upon report from any of its officers or otherwise is satisfied that any slum area or part thereof can be improved so as to conform to the interests of the health, safety or convenience of the residents of that area or of its neighbourhood, or that any building in any slum area can be improved so as to render it fit for human habitation consistent with safety, health or morals and if in its opinion such improvement can be carried out at a reasonable expense, it may serve upon the owner of such slum area or part thereof or such building a notice requiring him to execute the works of improvement specified therein within such time, not being less than thirty days, as may be specified in the notice:

Provided that where the owner of the building is different from the owner of the land on which the building stands and the works of improvement required to be executed relate to provision of water taps or bathing places or construction of drains, open or covered or provision of water-borne latrines or removal of rubbish and such works are to be executed outside the building, the notice shall also be served upon the owner of the land.

(2) In addition to serving a notice under sub-section (1) on the owner concerned, the competent authority shall serve a copy of the notice on any other person having an interest in the slum area or part thereof or building or the land on which the building stands, whether as lessee, mortgagee or otherwise.

(3) In determining, for the purposes of this Act, whether an improvement can be carried out at a reasonable expense, regard shall be had to the estimated cost of the works of improvement and the estimated value that the slum area or part thereof or the building will have when the works are completed.

6. *Power to execute works of improvement in slum areas and to recover expenses.*—(1) If a notice under section 5 requiring the owner to execute works of improvement is not complied with within the period specified in the notice or within such further time as the competent authority may give for sufficient reasons, the competent authority may itself execute the works required to be done by the notice.

(2) All expenses incurred by the competent authority under this section, together with interest at such rate as the Government may by order fix from the date when a demand for the expenses is made until payment, may be recovered by the competent authority from the owner as arrears of public revenue due on land:

Provided that if the owner proves that he—

(a) is receiving the rent merely as agent or trustee for some other person; and

(b) has not in his hands on behalf of that other person sufficient money to satisfy the whole demand of the authority,

his liability shall be limited to the total amount of the money which he has in his hands as aforesaid.

(3) Notwithstanding anything contained in any other law for the time being in force, all expenses incurred by the competent authority under this section shall constitute a first charge on the land or building concerned, subject to the charges for any tax or cess payable to the Government.

7. *Maintenance of works of improvement.*—(1) Where works of improvement have been executed in relation to any land or building in a slum area in pursuance of the provisions of section 5 or section 6, the occupier of that land or building shall be responsible for the maintenance of such works of improvement.

(2) If the occupier fails to maintain any works of improvement referred to in sub-section (1), the local authority shall serve upon the occupier a notice requiring him to execute the works of maintenance specified therein within such time, not being less than thirty days, as may be specified in the notice.

(3) If the notice under sub-section (2) is not complied with within the time specified in the notice, the local authority may itself execute the works required to be done by the notice.

(4) The expenses incurred by the local authority in connection with the maintenance of any works of improvement or the enjoyment of amenities and conveniences rendered possible by such works shall be recoverable from the occupier of the land or building as arrears of public revenue due on land.

8. *Buildings in slum area not to be erected except with the permission of the competent authority.*—(1) Notwithstanding anything contained in any other law for the time being in force, the competent authority may, by notification in the Gazette, direct that no person shall erect any building in a slum area or make any addition to, or alteration in, any building in such area, except with the previous permission in writing of the competent authority.

(2) Every notification issued under sub-section (1) shall cease to have effect on the expiration of two years from the date thereof except as respects things done or omitted to be done before such cesser.

(3) Every person desiring to obtain the permission referred to in sub-section (1) shall make an application in writing to the competent authority in such form and containing such information in respect of the erection of, or addition to, or alteration in, the building to which the application relates, as may be prescribed.

(4) On receipt of such application, the competent authority, after making such inquiry as it considers necessary, shall, by order in writing,

(a) either grant the permission subject to such terms and conditions, if any, as may be specified in the order; or

(b) refuse to grant such permission:

Provided that before making an order refusing such permission, the applicant shall be given a reasonable opportunity to show cause why the permission should not be refused.

(5) Nothing contained in sub-section (1) shall apply to—

(a) any works of improvement required to be executed by a notice under sub-section (1) of section 5 or in pursuance of an undertaking given under sub-section (2) of section 9; or

(b) the erection of any building in any area in respect of which a slum clearance order has been made under section 12.

9. *Power of competent authority to order demolition of buildings unfit for human habitation.*—(1) Where the competent authority upon report from any of its officers or otherwise is satisfied that any building within a slum area is unfit for human habitation and is not capable at a reasonable expense of being rendered so fit, it shall serve upon the owner of the building and upon any other person having an interest in the building, whether as lessee, mortgagee or otherwise, a notice to show cause within such time as may be specified therein as to why an order of demolition of the building should not be made.

(2) If any of the persons upon whom a notice has been served under sub-section (1) appears in pursuance thereof before the competent authority

and gives an undertaking to the authority that such person will within a period specified by the authority execute such works of improvement in relation to the building as will in the opinion of the authority render the building fit for human habitation, or that it will not be used for human habitation until the authority on being satisfied that it has been rendered fit for that purpose cancels the undertaking, the authority shall not make any order of demolition of the building.

(3) If no such undertaking as is mentioned in sub-section (2) is given, or, if in a case where any such undertaking has been given any work of improvement to which the undertaking relates is not carried out within the specified period, or the building is at any time used in contravention of the terms of the undertaking, the competent authority shall forthwith make an order of demolition of the building requiring that the building shall be vacated within a period to be specified in the order, not being less than thirty days from the date of the order and that it shall be demolished within six weeks after the expiration of that period.

10. *Procedure to be followed where demolition order has been made.*—(1) Where an order for demolition of a building under section 9 has been made, the owner of the building or any other person having an interest therein shall demolish that building within the time specified in that behalf in the order and if the building is not demolished within such time, the competent authority shall enter and demolish the building and sell the materials thereof by public auction.

(2) Any expenses incurred by the competent authority under sub-section (1), if not satisfied out of the proceeds of sale of materials of the building, shall be recoverable from the owner of the building or any other person having an interest therein as arrears of public revenue due on land and if there is any balance in the sale proceeds after satisfying such expenses, the same shall be paid to the owner or other person entitled to it.

CHAPTER IV

SLUM CLEARANCE AND RE-DEVELOPMENT

11. *Power to declare any slum area to be a clearance area.*—(1) Where the competent authority upon report from any of its officers or other information in its possession is satisfied as respects any slum area that the most satisfactory method of dealing with the conditions in the area is the clearance of such area and the demolition of all the buildings therein, the authority shall by an order notified in the Gazette declare the area to be a slum clearance area, that is to say, an area which has to be cleared and all the buildings therein have to be demolished and removed in accordance with the provisions of this Act :

Provided that any part of the slum area or any building in that area which in the opinion of the competent authority is not unfit for human habitation or dangerous or injurious to public health may be excluded from the declaration if the authority considers it necessary.

(2) The competent authority shall forthwith transmit to the Collector a copy of the declaration under this section together with a statement of the number of persons who, on a date specified in the statement, were occupying areas and buildings comprised in the clearance area.

12. *Slum clearance order.*—(1) As soon as may be after the competent authority has declared any slum area to be a clearance area, it shall make a slum clearance order in relation to that area ordering the clearance of the area and the demolition of each of the buildings specified therein and requiring each such building to be vacated within such time as may be specified in the order and submit the order to the Collector for confirmation.

(2) The Collector may either confirm the order without modification or subject to such variations as he considers necessary, or reject the order.

(3) A copy of every order passed by the Collector under sub-section (2) shall be furnished to the local authority within whose jurisdiction the slum area in respect of which such order has been passed is situate.

(4) If the Collector confirms the order, the order shall become operative from the date of such confirmation.

(5) When a slum clearance order has become operative, the owners of the lands and the buildings to which the order applies shall clear the area and demolish the buildings before the expiration of six weeks from the date on which the buildings are required by the order to be vacated or before the expiration of such longer period as in the circumstances of the case the competent authority may deem reasonable.

(6) If the slum clearance area is not cleared or the buildings are not demolished before the expiration of the period mentioned in sub-section (5), the competent authority shall enter and clear the area and demolish the buildings and sell the materials thereof by public auction.

(7) Any expenses incurred by the competent authority in clearing the area and in demolishing any building shall, if not satisfied out of the proceeds of sale of materials thereof, be recoverable by the competent authority as arrears of public revenue due on land and if there is any balance in the sale proceeds after satisfying such expenses, the same shall be paid to the owner or other person entitled to it.

(8) Subject to the provisions of this Act, where a slum clearance order has become operative, the owners of the lands to which the order applies may re-develop the lands in accordance with plans approved by the competent

authority and subject to such restrictions and conditions (including a condition with regard to the time within which the re-development shall be completed), if any, as that authority may think fit to impose:

Provided that an owner who is aggrieved by a restriction or condition so imposed on the user of his land or by a subsequent refusal of the competent authority to cancel or modify any such restriction or condition may, within such time as may be prescribed, appeal to the Collector, and the Collector shall make such order in the matter as he thinks proper and his decision shall be final.

(9) No person shall commence or cause to be commenced any work in contravention of a plan approved or a restriction or condition imposed under sub-section (8).

13. *Power of competent authority to re-develop clearance area.*—(1) Notwithstanding anything contained in sub-section (8) of section 12, the competent authority may at any time after a land has been cleared of buildings in accordance with a slum clearance order but before the work of re-development of that land has been commenced by the owner, by order, determine to re-develop the land if that authority is satisfied that it is necessary in the public interest to do so.

(2) Where any land has been cleared of buildings in accordance with a slum clearance order, the competent authority, if it is satisfied that the land has been, or is being, re-developed by the owner thereof in contravention of plans approved by the authority or any restrictions or conditions imposed under sub-section (8) of section 12 or has not been re-developed within such time and under such conditions as may be specified by it, may, by order, determine to re-develop the land:

Provided that before passing such order, the owner shall be given a reasonable opportunity to show cause why the order should not be passed.

CHAPTER V

ACQUISITION OF LAND

14. *Power of Government to acquire land.*—(1) Where, on any representation from the competent authority, it appears to the Government that for the purpose of improving or developing any slum area, or for the purpose of re-developing any slum clearance area or for the purpose of rehabilitating slum dwellers, it is necessary to acquire any land within, adjoining or surrounded by any such slum area or slum clearance area, they may acquire the land by publishing in the Gazette a notice to the effect that they have decided to acquire the land in pursuance of this section:

Provided that, before publishing such notice, the Government shall call upon the owner of, or any other person who, in the opinion of the Government,

may be interested in, such land to show cause why it should not be acquired; and after considering the cause, if any, shown by the owner or any other person interested in the land, the Government may pass such order as they deem fit.

(2) When a notice referred to in sub-section (1) is published in the Gazette, the land shall, on and from the date on which the notice is so published, vest absolutely in the Government free from all encumbrances.

15. *Right to receive amount.*—Every person having any interest in any land acquired under this Act shall be entitled to receive from the Government an amount as hereinafter provided.

16. *Basis for determination of amount.*—(1) The amount to which a person is entitled under section 15, in respect of any land acquired under this Act shall be an amount equal to sixty times the net average monthly income actually derived from such land during the period of five consecutive years immediately preceding the date of publication of the notice referred to in section 14, such net average monthly income being calculated in the manner and in accordance with the principles set out in the Schedule.

(2) The competent authority shall, after holding an inquiry in the prescribed manner, determine in accordance with the provisions of sub-section (1) the amount payable in respect of the land, and publish a notice in the Gazette specifying the amount so determined and calling upon the owner of the land and every person interested therein to intimate to it before a date specified in the notice whether such owner or person agrees to the amount so determined and, if he does not so agree, what amount he claims to be the net average monthly income actually derived from the land.

(3) The competent authority shall also serve notice to the same effect as is mentiond in sub-section (2) on the owner of the land and on all such persons known or believed to be interested therein or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the State.

(4) Any person who does not agree to the amount determined by the competent authority under sub-section (2) and claims a sum in excess of that amount may prefer an appeal to the Collector within thirty days from the date specified in the notice referred to in that sub-section.

(5) Where an appeal is preferred under sub-section (4), the Collector shall, after hearing the appellant and after such further enquiry as may be necessary, pass such orders as he deems fit.

(6) Any person who is aggrieved by an order passed by the Collector under sub-section (5) may prefer an appeal to the Board of Revenue within thirty days from the date of the order of the Collector, and the decision by the Board of Revenue on such appeal shall be final and shall not be questioned in any court of law.

(7) Where there is any building on the land in respect of which the net average monthly income has been determined, no separate amount shall be paid in respect of such building:

Provided that where the owner of the land and the owner of the building on such land are different, the competent authority shall apportion the amount between the owner of the land and the owner of the building in the same proportion as the market price of the land bears to the market price of the building on the date of acquisition.

17. *Apportionment of amount.*—(1) Where several persons claim to be interested in the amount determined under section 16, the competent authority shall determine the persons who in its opinion are entitled to receive it and the amount payable to each of them.

(2) If any dispute arises as to the apportionment of the amount or any part thereof, or as to the persons to whom the same or any part thereof is payable, the competent authority may refer the dispute to the decision of the Collector and the Collector in deciding any such dispute shall follow, as far as may be, the provisions of Part III of the Kerala Land Acquisition Act, 1961 (21 of 1962).

18. *Payment of amount or deposit of the same in court.*—(1) After the amount has been determined under section 16, the competent authority shall on behalf of the Government tender payment of, and pay, such amount to the persons entitled thereto.

(2) If the persons entitled to such amount do not consent to receive it, or if there be any dispute as to the title to receive such amount or as to the apportionment of it, the competent authority shall deposit the amount in the Court of the Subordinate Judge having jurisdiction over the area and that court shall deal with the amount so deposited in the manner laid down in sections 34 and 35 of the Kerala Land Acquisition Act, 1961 (21 of 1962).

19. *Payment of interest.*—Interest shall be calculated on the amount to which a person is entitled under section 15 at the rate of four per cent per annum from the date when the land vested in the Government under sub-section (2) of section 14 until such amount shall have been paid or deposited and shall be paid or deposited by the competent authority in the same manner as provided for the payment or deposit of such amount.

20. *Powers of competent authority in relation to determination of amount, etc.*—(1) The competent authority may, for the purpose of determining the amount under section 16, or apportionment thereof, require, by order, any person to furnish such information in his possession as may be specified in the order.

(2) The competent authority shall, while holding inquiry under section 16, have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any court or office;

(e) issuing commissions for the examination of witnesses or for local investigation.

21. *Use of land acquired.*—(1) Where any land specified in sub-section (1) of section 14 has been acquired under this Act, the Government shall undertake or cause to be undertaken such measures as may be necessary for the improvement, development, clearance or re-development of the land or the erection of buildings thereon in accordance with such plan as may be approved by them:

Provided that where any such land or any portion thereof is, in the opinion of the Government, unsuitable for the purposes mentioned above, on the ground that the use of the land or portion for such purposes will not be in the interest of orderly town planning, the framing of any master plan or the division of the town into different zones, or on the ground that the area of the land or portion is small, or on any other ground, the Government may use it or allow it to be used for such public purposes as they think fit.

(2) Any sites or buildings on any land referred to in the proviso to sub-section (1) may be allotted or leased for the accommodation of slum dwellers and of persons of such low income groups as may be prescribed, on such terms and conditions as may be prescribed:

Provided that except as otherwise provided in this Act, no portion of any land acquired under this Act shall be permanently granted, sold or alienated in favour of any person or persons.

(3) For the purpose of undertaking the measures referred to in sub-section (1), the Government may either hold the land under their ownership, control and management and execute such measures themselves or through any agency on such terms and conditions as may be determined by them or transfer the land to the Corporation of the City of Trivandrum or the City of Calicut or the City of Cochin, as the case may be or the municipal council or township committee or panchayat concerned, for the said purpose.

(4) Where any land is transferred as provided in sub-section (3),—

(a) such land shall vest in the corporation or the municipal council or the township committee or the panchayat, as the case may be

and the Corporation or the municipal council or the township committee or the panchayat shall be liable to pay the cost of acquisition of the land or such portion thereof as the Government may fix in each case; and

(b) the Corporation or the municipal council or the township committee or the panchayat, as the case may be, shall execute the measures referred to in sub-section (1), in accordance with such plans as may be approved by the Government, and subject to such direction as may be given from time to time by the Government; and shall, in the use of the land and in all connected matters, be bound by the provisions of this Act.

CHAPTER VI

PROTECTION OF TENANTS IN SLUM AREAS FROM EVICTION

22. *Tenants in slum areas not to be evicted without permission of competent authority.*—(1) Notwithstanding anything contained in any other law for the time being in force, no person shall, except with the previous permission in writing of the competent authority,—

(a) institute, after the commencement of this Act, any suit or other proceeding for obtaining any decree or order for the eviction of a tenant from any building or land in a slum area; or

(b) where any decree or order is obtained in any suit or proceeding instituted before such commencement for the eviction of a tenant from any building or land in such area, execute such decree or order.

(2) Every person desiring to obtain the permission referred to in sub-section (1) may make an application in writing to the competent authority in such form and containing such particulars as may be prescribed.

(3) On receipt of an application under sub-section (2), the competent authority, after giving an opportunity to the parties to be heard and after making such summary inquiry into the circumstances of the case as it thinks fit, shall, by order in writing, either grant or refuse to grant such permission.

(4) In granting or refusing to grant the permission under sub-section (3), the competent authority shall take into account the following factors, namely:—

(a) whether alternative accommodation within the means of the tenant would be available to him if he were evicted;

(b) whether the eviction is in the interest of improvement and clearance of the slum areas; and

(c) such other factors, if any, as may be prescribed.

(5) Where the competent authority refuses to grant the permission, it shall record a brief statement of the reasons for such refusal and furnish a copy thereof to the applicant.

23. *Appeals against orders refusing to grant permission.*—Any person aggrieved by an order of the competent authority refusing to grant the permission referred to in sub-section (1) of section 22 may, within such time as may be prescribed, prefer an appeal to the Collector and the order of the Collector on such appeal shall, subject to the provisions of section 24, be final.

24. *Revision by Government.*—(1) The Government may, either *suo motu* or on application by any person aggrieved, call for and examine the record of any order passed by the Collector under section 23 for the purpose of satisfying themselves as to the legality, propriety or regularity of such order and pass such order thereon as they think fit.

Provided that no order shall be passed under this sub-section unless the local authority concerned has been given an opportunity of being heard.

(2) The Government shall not of their own motion revise any order under sub-section (1) if that order has been passed more than three months previously.

(3) An application under sub-section (1) by an aggrieved person shall be made within a period of two months from the date on which the order in question was communicated to him:

Provided that the Government may admit an application made after the expiry of the said period of two months if they are satisfied that the applicant had sufficient cause for not making the application within that period.

(4) An order prejudicial to a person shall not be passed under sub-section (1) unless that person has been given a reasonable opportunity of showing cause against such order.

Explanation.—An order declining to interfere shall, for the purposes of this sub-section, be deemed to be an order prejudicial to a person.

25. *Restoration of possession of premises vacated by a tenant.*—(1) Where a tenant in occupation of any building in a slum area vacates the building or is evicted therefrom on the ground that it was required for the purpose of executing any work of improvement or for the purpose of re-erection of the building, the tenant may, within such time as may be prescribed, file a declaration with the competent authority that he desires to be replaced in occupation of the building after the completion of the work of improvement or re-erection of the building, as the case may be.

(2) On receipt of such declaration, the competent authority shall by order require the owner of the building to furnish to it, within such time as may be prescribed, the plans of the work of improvement or re-erection of the building and estimates of the cost thereof and such other particulars as may be necessary and shall on the basis of such plans and estimates and particulars, if any, furnished and having regard to the provisions of sub-section

(3) of section 26 and after holding such inquiry as it may think fit, provisionally determine the rent that would be payable by the tenant if he were to be re-placed in occupation of the building in pursuance of the declaration made by him under sub-section (1).

(3) The rent provisionally determined under sub-section (2) shall be communicated in the prescribed manner to the tenant and the owner.

(4) If the tenant after the receipt of such communication intimates in writing to the competent authority within such time as may be prescribed that when he is re-placed in occupation of the building in pursuance of the declaration made by him under sub-section (1), he would pay to the owner until the rent is finally determined under section 26 the rent provisionally determined under sub-section (2), the competent authority shall direct the owner to place the tenant in occupation of the building after the completion of the work of improvement or re-erection of the building, as the case may be, and the owner shall be bound to comply with such direction.

26. *Rent of buildings in slum areas.*—(1) Where any building in a slum area is let to a tenant after the execution of any work of improvement or after it has been re-erected, the rent of the building shall be determined in accordance with the provisions of this section.

(2) Where any such building is let to a tenant, other than a tenant who is placed in possession of the building in pursuance of a direction issued under sub-section (4) of section 25, the tenant shall be liable to pay to the owner,—

(a) if there is a general law relating to the control of rents in force in the area in which the building is situate and applicable to that building, the rent determined in accordance with the provisions of that law;

(b) if there is no such law in force in such area, such rent as may be agreed upon between the owner and the tenant.

(3) Where any such building is let to a tenant in pursuance of a direction issued under sub-section (4) of section 25, the tenant shall, notwithstanding any law relating to the control of rents in force in the area, be liable to pay to the owner,—

(a) if any work of improvement has been executed in relation to the building, an annual rent of a sum equivalent to the aggregate of the following amounts, namely:—

(i) the annual rent the tenant was payaing immediately before he vacated the building for the purpose of execution of the work of improvement;

(ii) four per cent of the cost of the work of improvement; and

(iii) six per cent of a sum equivalent to the amount payable in respect of any land which may have been acquired for the purpose of effecting such improvement as if such land were acquired under section 14 on the date of the commencement of the work of improvement;

(b) if the building has been re-erected, an annual rent of a sum equivalent to three per cent of the aggregate cost of reconstruction of the building and the cost of the land on which the building is re-erected.

Explanation.—For the purposes of this clause, the cost of the land shall be deemed to be a sum equivalent to the amount payable in respect of the land if it were acquired under section 14 on the date of commencement of the reconstruction of the building.

(4) The rent payable by a tenant in respect of any building under sub-section (3) shall, on an application made by the tenant or the owner, be determined by the authority referred to in sub-section (5):

Provided that an application for determination of such rent by the owner or the tenant shall not, except for sufficient cause, be entertained by such authority after the expiry of ninety days from the completion of the work of improvement or re-erection of the building, as the case may be.

(5) The authority to which the application referred to in sub-section (4) shall be made shall be,—

(a) where there is a general law relating to the control of rents in force in the area in which the building is situate, the authority to whom applications may be made for fixing of rents of buildings situate in that area; and for the purpose of determining the rent under this section that authority may excercise all or any of the powers it has under the said general law; and the provisions of such law including provisions relating to appeals shall apply accordingly;

(b) if there is no such law in force in that area, such authority as may be specified by rules made in this behalf by the Government, and such rules may provide for the procedure that will be followed by that authority in determining the rent and also for appeals against the decision of such authority.

(6) Where the rent is finally determined under this section, then the amount of rent paid by the tenant shall be adjusted against the rent so finally determined and if the amount so paid falls short of, or is in excess of, the rent finally determined, the tenant shall pay the deficiency, or be entitled to a refund, as the case may be.

27. *Tenants not to sublet or alienate.*—Notwithstanding anything contained in any law for the time being in force, or in any contract, no tenant of any building in a slum area shall, after the execution of any work of improvement in relation to that building or after it has been re-erected, sublet that building or alienate his rights in respect of that building without the previous permission in writing of the competent authority.

28. *Exemption.*—Nothing in sections 22, 23 and 24 shall apply to, or in relation to, a tenant of any building in a slum area belonging to the Government or any local authority.

CHAPTER VII

MISCELLANEOUS

29. *Powers of entry.*—It shall be lawful for any person authorised by the competent authority in this behalf to enter into or upon any building or land in a slum area or in any area where the competent authority has reason to believe that conditions of the nature referred to in section 3 prevail, with or without assistants or workmen, in order to make any inquiry, inspection, measurement, valuation or survey or to execute any work which is authorised by or under this Act or which it is necessary to execute for any of the purposes or in pursuance of any of the provisions of this Act or of any rule or order made thereunder.

30. *Powers of inspection.*—(1) The competent authority may, by general or special order, authorise any person—

(a) to inspect any drain, latrine, urinal, cesspool, pipe, sewer or channel in or on any building or land in a slum area, and in his discretion to cause the ground to be opened for the purpose of preventing or removing any nuisance arising from the drain, latrine, urinal, cesspool, pipe, sewer or channel, as the case may be;

(b) to examine works under construction in the slum area, to take levels or to remove, test, examine, replace or read any meter.

(2) If under sub-section (1) any ground is opened, the expenses thereby incurred shall be paid by the owner or occupier of the land or building, but if it is found that no nuisance exists or, but for such opening, would have arisen, the ground or portion of any building, drain, or other work opened, injured or removed for the purpose of such inspection shall be filled in, reinstated, or made good, as the case may be, by the competent authority.

31. *Power to enter land adjoining land where work is in progress.*—(1) Any person authorised by the competent authority in this behalf may, with or without assistants or workmen, enter on any land within forty-five metres of any work authorised by or under this Act for the purpose of depositing thereon any soil, gravel, stone or other materials or for obtaining access to such work or for any other purposes connected with the carrying on of the same.

(2) Any person authorised under sub-section (1) shall, before entering on any land under sub-section (1), state the purpose thereof, and shall, if so required by the occupier or owner, fence off so much of the land as may be required for such purpose.

(3) Any person authorised under sub-section (1) shall in exercising any power conferred by this section, do as little damage as may be reasonably necessary and compensation shall be payable by the competent authority to the owner or occupier of such land or to both for any such damage whether permanent or temporary.

32. *Breaking into buildings.*—It shall be lawful for any person authorised by the competent authority in this behalf to make any entry into any place or to open or cause to be opened any door, gate or other barrier—

(a) if he considers the opening thereof necessary for the purpose of such entry; and

(b) if the owner or occupier is absent, or being present refuses to open such door, gate, or barrier.

33. *Entry to be made in day time.*—No entry authorised by or under this Act shall be made except between the hours of sunrise and sunset.

34. *Owner's consent ordinary to be obtained.*—Save as provided in this Act, no building or land shall be entered without the consent of the occupier, or, if there is no occupier, of the owner thereof, and no such entry shall be made without giving the said occupier or owner, as the case may be, not less than twenty-four hours' written notice of the intention to make such entry:

Provided that no such notice shall be necessary if the place to be inspected is a shed for cattle or a latrine or urinal or a work under construction.

35. *Power of eviction to be exercised only by the competent authority.*—Where the competent authority is satisfied either upon a representation from the owner of a building or otherwise that the occupants of the building have not vacated it in pursuance of any notice, order or direction issued or given by the authority, the authority shall, by order, direct the eviction of the occupants from the building in such manner and within such time as may be specified in the order:

Provided that before making any order under this section the competent authority shall give a reasonable opportunity to the occupants of the building to show cause why they should not be evicted therefrom.

36. *Power to remove offensive or dangerous trades from slum areas.*—The competent authority may, by order in writing, direct any person carrying on any dangerous or offensive trade in a slum area to remove the trade from that area within such time as may be specified in the order:

Provided that no order under this section shall be made unless the person carrying on the trade has been even a reasonable opportunity of showing cause why the order should not be made.

37. *Appeals.*—(1) Except as otherwise expressly provided in this Act, any person aggrieved by any notice, order or direction issued or given by the competent authority may appeal to the Collector within a period of thirty days from the date of receipt of such notice, order or direction.

(2) Any person aggrieved by an order passed by the Collector under sub-section (1) may prefer an appeal to the Government within thirty days from the date of the order of the Collector.

(3) Every appeal under this Act shall be made by petition in writing accompanied by a copy of the notice, order or direction appealed against.

(4) On the admission of an appeal, all proceedings to enforce the notice, order or direction and all prosecution for any contravention thereof shall be held in abeyance pending the decision of the appeal, and if the notice, order or direction is set aside on appeal, disobedience thereto shall not be deemed to be an offence.

(5) All petitions of appeal under this Act shall be affixed with court fee stamp of such value as may be prescribed.

(6) No appeal shall be decided under this section unless the appellant has been heard or has had a reasonable opportunity of being heard in person or through an authorised agent.

(7) The decision of the Government on appeal shall be final and shall not be questioned in any court.

38. *Service of notices, etc.*—(1) Every notice, order or direction issued under this Act shall, save as otherwise expressly provided in this Act, be served—

(a) by giving or tendering the notice, order or direction, or by sending it by registered post with acknowledgement due to the person to whom it is intended; or

(b) if such person cannot be found, by affixing the notice, order or direction on some conspicuous part of his last known place of abode or business, or by giving or tendering the notice, order or direction to some adult member of his family or in the absence of any such member, on a servant of the family; and if such service is not possible by affixing the notice, orders or direction on some conspicuous part of the building or land, if any, to which it relates.

(2) Where the person on whom a notice, order or direction is to be served is a minor, service upon his guardian or in his absence upon any adult member of his family or in the absence of both upon any servant of his family shall be deemed to be service upon the minor.

(3) Every notice, order or direction, which by or under this Act is to be served as a public notice, order or direction or as a notice, order or direction which is not required to be served to any individual therein specified shall, save as otherwise expressly provided in this Act, be deemed to be sufficiently served if a copy thereof is affixed in such conspicuous part of the office, of the competent authority or in such other public place during such period or is published in such local newspaper or in such other manner, as the competent authority may direct.

39. *Penalties.*—(1) Whoever fails to comply with any notice, order or direction issued or given under this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever commences or causes to be commenced any work in contravention of any re-striction or condition imposed under sub-section (8) of section 12 or any plan for the re-development of any clearance area shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(3) Whoever obstructs the entry of any person authorised under this Act to enter into or upon any building or land or molests such person after such entry shall be punishable with fine which may extend to five hundred rupees.

40. *Offences by companies.*—(1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,

(a) 'company' means a body corporate and includes a firm or other association of individuals; and

(b) 'director' in relation to a firm, means a partner in the firm.

41. *Order of demolition of buildings in certain cases.*—Where the erection of any building has been commenced or is being carried out or has been completed in contravention of any restriction or condition imposed under sub-section (8) of section 12 or a plan for the re-development of any clearance area, or in contravention of any notice, order or direction issued or given under this Act, the competent authority may, in addition to any other remedy that may be resorted to under this Act or under any other law, make an order directing that such erection shall be demolished by the owner thereof within such time not exceeding two months as may be specified in the order, and on the failure of the owner to comply with the order, the competent authority may itself cause the erection to be demolished, and the expenses of such demolition shall be recoverable from the owner as arrears of public revenue due on land:

Provided that no such order shall be made unless the owner has been given a reasonable opportunity of being heard.

42. *Force to be used where necessary.*—For the exercise of the powers under section 29, 30, 31, 32, 33, 34, 35 or 41, the competent authority or the person authorised by it may use such minimum force as may be reasonably necessary.

43. *Previous sanction of competent authority or officer authorised by it for prosecution.*—No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction in writing of the competent authority or an officer authorised by it in this behalf.

44. *Power to delegate.*—The competent authority may, by order in writing, direct that any power exercisable by it under this Act may also be exercised, in such cases and subject to such conditions, if any, as may be specified in the order, by such officer or local authority as may be mentioned therein.

45. *Protection of action taken in good faith.*—(1) No suit, prosecution, or other legal proceedings shall lie against the Government or the competent authority or any local authority or person for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act or any rule or order made thereunder.

(2) No suit or other legal proceedings shall lie against the Government or the competent authority or any local authority or person for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act or any rule or order made thereunder.

46. *Bar of jurisdiction.*—Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter any authority or person is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

47. *Competent authority, etc., to be public servants.*—The competent authority and any person authorised by it under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

48. *Act to over-ride other laws.*—The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law:

Provided that if any slum area is situate in any town or other area in respect of which any plan or scheme for development or improvement has been sanctioned under any other law for the time being in force, then the orders of the competent authority regarding re-development of the slum area shall, as far as possible, be in confirmity with such plan or scheme,

49. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of authentication of notices, orders and other instruments of the competent authority;

(b) the preparation of plans for the re-development of any slum area and matters to be included in such plans;

(c) the form in which an application under sub-section (3) of section 8 shall be made and the information to be furnished and the fees to be levied in respect of such application;

(d) the manner in which inquiries may be held under sections 16 and 22;

(e) the form and manner in which applications for permission under sub-section (2) of section 22 shall be made and the fees to be levied in respect of such applications;

(f) the procedure to be followed by the competent authority before granting or refusing to grant permission under section 22;

(g) the time within which an appeal may be preferred under sub-section (8) of section 12 or section 23;

(h) the time within which a declaration may be filed under sub-section (1) or an intimation may be sent under sub-section (4) of section 25 and the fees, if any, to be levied in respect of such declaration;

(i) the time within which plans, estimates and other particulars referred to in sub-section (2) of section 25 may be furnished;

(j) the procedure to be followed by the competent authority for fixing the provisional rent under sub-section (2) of section 25.

(k) the manner in which the rent provisionally determined under sub-section (2) of section 25 shall be communicated to the tenants and owners;

(l) the matters in respect of which provision may be made under sub-section (5) of section 26;

(m) fees to be levied for petitions of appeal under section 37;

(n) the officers and local authorities to whom powers may be delegated under section 44;

(o) any other matter which is to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

(*See* section 16)

Manner in which and principles according to which net average monthly income is to be calculated

1. The competent authority shall first determine the gross rent actually derived by the owner of the land acquired, including any building on such land, during the period of five consecutive years referred to in sub-section (1) of section 16.

2. For such determination the competent authority may hold any local inquiry and obtain, if necessary, certified copies of extracts from the property tax assessment books of the municipal or other local authority concerned showing the rental value of such land.

3. The net average monthly income referred to in sub-section (1) of section 16 shall be sixty per cent of the average monthly gross rent. The average monthly gross rent shall be one-sixtieth of the gross rent during the five consecutive years as determined by the competent authority under paragraph 1.

4. Forty per cent of the gross monthly rent referred to above shall not be taken into consideration in determining the net average monthly income but shall be deducted in lieu of the expenditure which the owner of the land would normally incur for payment of any property tax to the municipal or other local authority, for collection charges, income-tax or bad debts as well as for works of repair and maintenance of the buildings, if any, on the land.

5. Where the land or any portion thereof has been unoccupied or the owner has not been in receipt of any rent for the occupation of the land during the whole or any part of the said period of five years, the gross rent shall be taken to be the income which the owner would have derived if the lands had been leased out for rent during the said period, and for this purpose the rent actually derived from the land during a period prior or subsequent to the period during which it remained vacant or from similar land in the vicinity shall be taken into account.

STATEMENT OF OBJECTS AND REASONS

In the thickly populated towns of this State, there are several slum areas, where the living conditions of the occupants are deteriorating day by day due to the increase of population and the putting up of tenements without any plan and under insanitary conditions. In the National Plan of development, slum clearance schemes have, therefore, been given a prominent place. In the State Plans provisions are accordingly included for these scheme which envisage the clearing of slum areas and their development on a planned basis.

2. The State Slum Clearance Scheme aims at the clearance of the slum areas in the most thickly populated urban areas, the improvement and the construction of houses and the rehabilitation of the slum dwellers according to plan. Under the State Plan, the primary responsibility for the execution of the scheme rests with the local bodies which are helped financially and otherwise by the State Government wherever necessary. In the process of clearing and improving the slum areas, certain lands will have to be acquired by Government in the first instance on payment of an amount. It is therefore considered necessary to enact a comprehensive legislation under which Government should have the necessary powers for carrying out the improvement and clearance of the slum areas and the acquisition of slum areas and of land required for the rehabilitation of slum dwellers.

3. The Bill seeks to achieve the above object.

FINANCIAL MEMORANDUM

Clause 15 of the Bill provides for the payment of amount by the Government for the lands acquired under the Act. Clause 6, clause 10, sub-clause (6) of clause 12 and clause 41 of the Bill also contemplate expenditure from the State Funds by the competent authority for the execution of certain works. It cannot be estimated at present as to what would be the exact amount of expenditure to be incurred from the State Funds on account of the enactment of the Bill. The amount of expenditure will depend upon the extent of lands to be acquired under the proposed legislation and other factors which cannot be foreseen now. The expenditure incurred from the State Funds for the acquisition of lands will be recovered from the respective local authorities where the lands acquired are transferred to the local authorities and the expenditure incurred by the competent authority for execution of works will be recovered from the concerned parties.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of clause 1 seeks to empower the Government to bring the Act into force on such date as they may, by notification in the Gazette appoint.

Sub-clause (c) of clause 2 seeks to empower the Government to appoint in relation to any area, by notification in the Gazette, an officer or authority as competent authority for that area for the purposes of the Act.

Sub-clause (1) of clause 3 seeks to empower the competent authority to declare, subject to the requirements of that sub-clause, by notification in the Gazette, any area to be a slum area.

Sub-clause (2) of clause 6 seeks to empower the Government to fix by order the rate of interest payable on the expenses incurred by the competent authority under sub-clause (1) of that clause.

Sub-clause (1) of clause 8 seeks to empower the competent authority to direct, by notification in the Gazette, that no person shall erect any building in a slum area or make any addition to, or alteration in, any building in such area, except with the previous permission in writing of the competent authority.

Sub-clause (1) of clause 11 seeks to empower the competent authority to declare subject to the requirements of that sub-clause, by an order notified in the Gazette, any area to be slum clearance area.

Sub-clause (2) of clause 16 seeks to empower the Government to prescribe the manner of inquiry to be held by the competent authority to determine the amount payable in respect of land acquired under the Act.

Sub-clause (2) of clause 21 seeks to empower the Government to prescribe the low income groups of persons to whom any sites or buildings on any land referred to in the proviso to sub-clause (1) of that clause may be allotted or leased out and the terms and conditions subject to which such allotment or lease may be made.

Sub-clause (2) of clause 22 seeks to empower the Government to prescribe the form of, and the particulars to be contained in, an application to be made to the competent authority for obtaining the permission referred to in sub-clause (1) of that clause.

Item (c) of sub-clause (4) of clause 22 seeks to empower the Government to prescribe the factors, besides those specified in items (a) and (b) of that sub-clause, which shall be taken into account in granting or refusing to grant the permission under sub-clause (3) of that clause.

Clause 23 seeks to empower the Government to prescribe the time within which an appeal may be preferred to the Collector against an order of the competent authority refusing to grant the permission referred to in sub-clause (1) of clause 22.

Sub-clause (1) of clause 25 seeks to empower the Government to prescribe the period within which a tenant who was in occupation of any building in a slum area may file a declaration with the competent authority for being replaced in occupation. Sub-clause (2) of that clause seeks to empower the Government to prescribe the time within which the owner of a building has to furnish to the competent authority the plans of the work of improvement or re-erection of the building. Sub-clause (4) of the said clause seeks to empower the Government to prescribe the time within which a tenant has to intimate in writing to the competent authority, his willingness to pay the rent provisionally fixed, when he is replaced in occupation of the building.

Item (b) of sub-clause (5) of clause 26 seeks to empower the Government to specify by rules the authority to whom an application for determination of rent of buildings in slum areas is to be made, where there is no general law relating to the control of rents in such area and the procedure to be followed by such authority and also for appeals against the decision of such authority.

Sub-clause (5) of clause 37 seeks to empower the Government to prescribe the value of court fee stamp that has to be affixed on all petitions of appeal under the Act.

Clause 44 seeks to empower the competent authority to direct, by order in writing, that any power exercisable by it under the Act may also be exercised, subject to such conditions as may be specified in the order, by such officer or local authority as may be mentioned therein.

Clause 49 seeks to empower the Government to make rules to carry out the purposes of the Act. The various matters in respect of which rules may be made have been specified in sub-clause (2) of that clause and they relate *inter-alia* to the manner of authentication of notices, orders and other instruments of the competent authority, the preparation of plans for the re-development of any slum area and the matters to be included in such plans, the form and manner in which applications for permission to execute eviction decrees shall be made, the procedure to be followed by the competent authority in disposing of such applications and the time within which an appeal may be preferred.

The matters in respect of which rules may be made or notifications or orders may be issued are of a routine or administrative nature. The delegation of legislative power is, thus, of a normal character.

R. S. UNNI.